

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Craig Anderson	Team: Squad #7	CCRB Case #: 201502107	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 03/21/2015 9:55 AM	Location of Incident: 42nd Precinct stationhouse	Precinct: 42	18 Mo. SOL 9/21/2016	EO SOL 9/21/2016	
Date/Time CV Reported Mon, 03/23/2015 11:03 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 03/23/2015 11:03 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Danny Aguilar	2496	941319	042 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Andrew Gee	12551	956669	042 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Danny Aguilar	Discourtesy: Sgt. Danny Aguilar spoke discourteously to § 87(2)(b)	
B.SGT Danny Aguilar	Abuse: Sgt. Danny Aguilar threatened § 87(2)(b) with the use of force.	

Case Summary

On March 21, 2015 at 9:55 a.m., § 87(2)(b) was arrested by PO Andrew Gee in front of 970 Home Street in the Bronx for allegedly punching her husband, § 87(2)(b) (Board Review 01, 02, and 03). She was transported to the 42nd Precinct stationhouse and put in a cell, where she said she loudly cried and disputed her arrest. After she did this for some time, Sgt. Danny Aguilar allegedly entered the cell area and said, “Shut the fuck up or I’m going to mace you” (**Allegations A and B**). § 87(2)(b) saw a judge and was released the same day.

Mediation, Civil and Criminal Histories

This case was ineligible for mediation § 87(2)(g). As of July 2, 2015, § 87(2)(b) has not filed a notice of claim about this incident with the Comptroller’s office (Board Review 04). § 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b)
- Sgt. Aguilar has been a member of the NYPD for eight years and there are eight prior complaints against him, none of which were substantiated. Three complaints include discourtesy allegations and two include threat of force allegations.
 - Case 201104752 included an unsubstantiated allegation that Sgt. Aguilar told a civilian to “Shut the fuck up,” § 87(2)(g)

Findings and Recommendations

Explanation of Subject Officer Identification

- § 87(2)(b) said that the subject of the allegations was the sergeant who responded to the scene of arrest, who she identified as a sergeant by his gold shield and sergeant’s stripes. Sgt. Aguilar acknowledged that he responded to the scene of § 87(2)(b)’s arrest, but did not recall whether he had any interaction with her in the holding cell. There are some discrepancies between § 87(2)(b)’s description of the sergeant and Sgt. Aguilar’s pedigree information: she described him as a white man in his 20s, and Sgt. Aguilar is a § 87(2)(b)-old Hispanic man (Board Review 06). However, the Event Report said the only sergeant to respond was “ST1,” and the roll call showed that Sgt. Aguilar was ST1 (Board Review 07 and 08). Sgt. Aguilar was also the only sergeant listed as working on the roll call aside from the desk sergeant, who would generally not leave the stationhouse. § 87(2)(g)

Allegation A – Discourtesy: Sgt. Danny Aguilar spoke discourteously to § 87(2)(b)

Allegation B – Abuse of Authority: Sgt. Danny Aguilar threatened § 87(2)(b) with the use of force.

§ 87(2)(b) said that after PO Gee walked her to the cells, she began “screaming” and “bawling.” After several minutes of this, Sgt. Aguilar allegedly walked into the room and said, “Shut the fuck up or I’m going to mace you.” PO Gee was not in the room at the time; the only other person present was a prisoner who § 87(2)(b) believed was arrested for driving under the influence (see § 87(2)(b)’s Interview Report).

The other prisoner was identified via the Prisoner Holding Pen Roster as § 87(2)(b) (Board Review 09). § 87(2)(b) provided a phone statement on April 8, 2015. His recollection of the incident was limited. He remembered a middle-aged black woman being brought into the cells after being arrested for a domestic dispute, and said she was yelling and crying. Although he remembered a “commotion” taking place between the woman and a police officer, he could not recall any specific statements the officer made, and was unsure whether the officer made any kind of threat toward § 87(2)(b) (Board Review 10).

Sgt. Aguilar acknowledged his presence at the scene of arrest, and said he spoke to § 87(2)(b) there. He did not recall whether he ever went in the holding cell room while she was at the stationhouse. He did not recall § 87(2)(b) exhibiting any unusually irate behavior. When asked if he ever told her, “Shut the fuck up or I’m going to mace you,” he first denied this, but then amended his statement to say that he did not recall if he ever said this. He did not recall whether he used any obscenities toward § 87(2)(b) or threatened her with mace or other force (see Sgt. Aguilar’s Interview Report).

PO Gee said that, while he was in the holding cell area processing § 87(2)(b)’s arrest, she was calm and quiet. He did not recall any other officers interacting with her, and did not hear any officer make the statement alleged above (see PO Gee’s Interview Report).

Officers must be “courteous and respectful” in their dealings with the public. Patrol Guide, Section 203-09 (Board Review 11). Officers must use the “minimum necessary force” against civilians. Patrol Guide, Section 203-11 (Board Review 12).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Pod: 7

Investigator: _____
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date